

CHAPTER 8

OVERSIGHT OF COLLECTION

As noted in chapter 1, the Agency's original statutory charter made no mention of espionage, but Congress clearly understood that one of its principal functions would be to mount such operations to collect foreign intelligence. Over time, presidents have authorized the Agency to undertake other kinds of collection.

This chapter describes the extent to which Congress was aware of, and has been involved in overseeing, the Agency's collection activities. It does not go into these activities in detail but only to the extent necessary for the reader to understand the issues and concerns that have prompted Congress to become involved in them over the years. This chapter does not cover congressional action on the Agency's budget, described in chapter 6, nor does it include Congress's involvement in covert action, described in chapter 9, or counterintelligence and security matters, described in chapter 10.

Early Congressional Awareness of Espionage Operations: 1947–60

It is true that many, if not most, of the Agency's early overseers in Congress were reluctant to be given information of a sensitive nature, including information about the Agency's operational activities. For them, it was enough to know that the Agency was conducting espionage around the world to collect foreign intelligence; they did not need the details.

It would be a mistake to conclude, however, that they never received such information. While the documentary record is sparse, there are scattered, sometimes oblique, references (noted below) indicating that Congress was given information from time to time about the Agency's operations, even during the early years of its existence. Specific ongoing operations were rarely, if ever, discussed—the names or identities of agents would have been considered off-limits even by the committees themselves—but, as former Legislative Counsel Walter Pforzheimer recalled, early DCIs would “talk broad programs . . . occasionally talk generally in the field of techniques.”¹ They would also let their subcommittees know about notable successes and failures. From time to time, they would explain the difficulties inherent in carrying out espionage

operations in denied areas, and, at times, even provide nonspecific information on the Agency's extant capabilities in a particular country.

More often than not, this kind of information was imparted at a personal level to the leaders of the CIA subcommittees. Occasionally it would be provided at formal meetings of the subcommittees—either to justify the Agency's annual budget request or to justify other legislation the Agency was seeking—but testimony pertaining to such topics would typically be off-the-record. On rare occasions, non-CIA committees might be given a glimpse of the Agency's operational capabilities, either to explain why the Agency had failed to predict a particular event (see chapter 7) or to respond to other kinds of criticism. Typically, though, congressional access to information concerning operations—sources and methods—was limited at best and confined to the CIA subcommittees, none of which had the capability or the interest in probing into them, apart from pressing the DCI for answers as the situation might require.

In 1948, when DCI Hillenkoetter was preparing to testify before the HASC subcommittee on what eventually became the CIA Act of 1949, his legislative counsel advised him to show off “two or three obsolete gadgets in the nature of trick fountain pens, trick cameras, or other ‘toys’ which would be effective as exhibits indicating the specialized nature of certain of our procurements.”² Later, during the Senate's consideration of the bill's provision authorizing the DCI to bring 100 aliens into the United States each year, one senator explained, apparently reflecting the justification provided the Agency, that the provision was essential to provide protection for individuals engaged in the “most dangerous work of espionage.”³

In October 1949, after the Soviet Union had exploded its first atomic bomb, a senator on the JAEC took Hillenkoetter to task for misleading the committee when he previously told it that the CIA “actually had agents in Russia; that it had gotten some of its agents out of Russia with information; that it was screening people leaving and escaping Russia; and [implied] that it possessed much factual data upon which the previously estimated date of completion of the first weapon by Russia had been arrived at.”⁴ The senator went on to tell Hillenkoetter that he thought the Agency had “muffed it for a year and a half, maybe longer.” When the discussion apparently turned to what the CIA needed to obtain this kind of information, Hillenkoetter angrily replied,

We could put 10,000 people in Russia, and there is no assurance that we would have all the information that we have . . . you can

¹ Pforzheimer interview, 7 March 1983, 20.

² CIA draft study, Vol. I, 20.

³ *Ibid.*, 25.

⁴ Barrett, *CIA and Congress*, 55–56.

*give us 100,000, and . . . [not] know definitely what they were going to do and when they would produce a bomb. This thing doesn't work that way.*⁵

In 1950, Congressman John Tabor, the ranking Republican on the HAC, was frank to note, "Off-the-record testimony indicates that we have no real penetration behind Iron Curtain countries."⁶

DCI Smith told a class of young CIA officers in 1952 that the CIA could not "get the money we need if we didn't tell [Congress] a good deal about our operations."⁷ At the same time, he was wary of getting into too much detail. When members' questioning became uncomfortably pointed, former CIA liaison Pforzheimer later recalled, Smith would sometimes attempt to divert attention by saying, "Now, as I recall, Marshal Stalin once told me" . . . and this [according to Pforzheimer] would always make an impression."⁸ Having served as US ambassador to the Soviet Union following World War II, Smith was one of the few people in Washington who had actually met with the "archenemy."

In 1953, after DCI Dulles learned that Polish intelligence had penetrated one of the Agency's espionage networks, he reportedly commented to his aides, "Well, I guess I'll have to fudge a little. I'll tell the truth to Dick [Senator Russell]. I always do. That is, if Dick wants to know."⁹

In 1954, Dulles appeared before the HAC subcommittee, now chaired by Congressman Tabor, where he was told to be prepared to provide "details" with respect to the Agency's operations. Dulles took with him a book describing espionage successes as well as failures and, according to one account of the meeting, spoke candidly about the problems posed by clandestine collection inside the Soviet Union.¹⁰ (The fact that the HAC subcommittee had asked for such sensitive information later provoked complaints from the CIA subcommittees in the Senate.)

Prior to this hearing, Tabor spoke with Dulles about information the congressman had received indicating that the CIA was involved in SIGINT activities and wanted to know whether they were duplicating NSA's efforts. Dulles explained that "through our relations with foreign intelligence services" the

⁵ *Ibid.*, 61–62.

⁶ *Ibid.*, 96.

⁷ *Ibid.*, 136.

⁸ Montague, *Walter Bedell Smith*, 256.

⁹ Ambrose, *Ike's Spies*, 177.

¹⁰ Barrett, *CIA and Congress*, 155–59.

CIA “did obtain NSA-type of information of great value that we turn over to [NSA].” There was no duplication, though, he contended.¹¹

In 1956, Senator Russell, in a floor speech defending the existing oversight arrangements, told his colleagues that he had been told of activities, which “almost chills the marrow of a man to hear about.”¹²

In early 1959, in response to a specific request from Congressman Cannon, who then chaired the HAC, Dulles provided a briefing on “the Agency, its operations, and accomplishments.”¹³ CIA records do not indicate what he actually briefed. Dulles also appeared four times before the HASC subcommittee in early 1959, discussing world events during his first appearance and “Agency activities” during the latter three.¹⁴

Later the same year, after Soviet leader Nikita Khrushchev boasted to local officials during a visit to Los Angeles that his government had intercepted US diplomatic communications and that certain CIA agents were “double agents,” working for the Soviet Union, Dulles wrote to the chairman of the HASC subcommittee, Congressman Paul Kilday (D-TX), to condemn Khrushchev’s remarks as “part of a deliberate campaign to discredit US intelligence.” He went on to explain it further:

*From time to time, [CIA] agents are exposed and apprehended. This often happens to Soviet agents. These agents sometimes carry both money and ciphers known as one-time pads. These pads are useful solely for communications between the agent and his home base, and do not affect any other communication system. As far we are concerned, Khrushchev has not got much comfort out of us in this respect; in fact, nothing comparable to what we have gained from Soviet defectors and agents.*¹⁵

In January 1960, before a closed session of the SFRC, Dulles, as part of a survey of world events, described the number of defectors the CIA had handled the previous year and specifically mentioned the value of a particular Soviet defector.¹⁶

Writing of his experience as DCI, Dulles noted that the CIA “reports its current operations to the extent and in the detail the [HASC and SASC subcommittees] desire . . . dealing here not so much with the financial aspects of

¹¹ Ibid., 156–57.

¹² Ibid., 231.

¹³ CIA draft study, Vol. I, 69.

¹⁴ Ibid., 333.

¹⁵ Ibid., 342.

¹⁶ Ibid. 360.

operations but with all the other elements of the CIA's work." He also defended their ability to keep secrets:

From almost ten years of experience in dealing with the Congress . . . I have found that secrets can be kept and the needs of our legislative bodies met. In fact, I do not know of a single case of indiscretion that resulted from telling these committees the most intimate details of CIA activities.¹⁷

Early Technical Collection: The U-2 and CORONA Programs

In late 1954, President Eisenhower approved a program to build a high-altitude reconnaissance aircraft, the U-2, principally to photograph military installations within the Soviet Union. CIA and the Air Force would have joint responsibility for the project, and the funds used to build and test the aircraft would be channeled through the Agency's Contingency Reserve Fund to provide better security and simplify the procurement process.¹⁸

Although this decision involved the Agency in a new kind of collection activity and the use of the Contingency Reserve Fund as a funding mechanism, because of the extreme secrecy surrounding the project at the time, no one in Congress was told of it until early 1956, after the U-2 was built, tested, and in production—but before any missions had been flown. Dulles initially briefed Senators Saltonstall and Russell in February and, on their recommendation, Cannon and Tabor of the HAC subcommittee. The DCI had planned to brief others in Congress, but in early July the president directed him not to discuss the U-2 program outside the executive branch.¹⁹ Although Dulles had his staff prepare a briefing for selected members of Congress in 1958, in the event the president's embargo should be lifted, no formal briefings occurred until a U-2, piloted by Francis Gary Powers, was shot down over the Soviet Union on 1 May 1960.²⁰

It is possible, if not probable, however, that a few other members of Congress were told of the U-2 program before 1 May. Although CIA records reflect that only the four were briefed, two other senators said, after the shoot-down, that Dulles had informally told them about the program. Cannon even went so far as to say his entire HAC subcommittee had been briefed as part of its annual consideration of the Agency's budget. Answering the question he

¹⁷ Dulles, *Craft of Intelligence*, 241, 262–63.

¹⁸ For a detailed description of the origin, purpose, and operation of the U-2 program, see Pedlow and Welzenbach, *CIA and the U-2 Program*.

¹⁹ *Ibid.*, 88; CIA draft study, Vol. I, 80.

²⁰ The congressional reaction following the shutdown is described in detail in Barrett, 375–422.

assumed was on the minds of his colleagues, Cannon explained that out of “absolute and unavoidable military necessity,” other members of the House could not be told of the U-2.²¹

Dulles did apologize to the chairman of the HASC CIA subcommittee, Paul Kilday, for failing to apprise him of the U-2, but Kilday said he understood the Agency’s security concerns. Dulles received a different reaction from Speaker of the House Sam Rayburn (D-TX), however, who expressed anger, first to Dulles, then to President Eisenhower, about the Agency’s failure to bring him into the matter.²²

In any event, CIA records do not reflect any congressional scrutiny of the U-2 program from the time Dulles briefed the four members in early 1956 until Powers was shot down. Funding for the U-2 had to be provided each year (in either the CIA or Air Force budget allocations), but whether the administration identified these funds to the subcommittees as such is not clear. There is no indication in Agency records that any of its subcommittees ever raised questions about the program.

After the shutdown, however, a flurry of congressional inquiries ensued. Dulles appeared first on 9 May 1960 before a select group of 18 congressmen. During this briefing, he was questioned about the U-2 program in general and the Powers flight in particular; members seemed particularly concerned about the timing of the flight (less than two weeks before a scheduled Eisenhower-Khrushchev summit meeting in Paris) and with the clumsy cover stories the administration had been put out after Khrushchev had announced that a U-2 had been shot down over Soviet territory. The initial explanation offered by a spokesman of the National Aeronautics and Space Administration—that a U-2 based in Turkey might have accidentally violated Soviet airspace while doing meteorological research—had, in fact, been picked up and defended by members of Congress after it was issued. When Khrushchev announced on 7 May that the U-2 pilot had survived the crash of his plane, other members, ignorant of the true purpose of flight, had taken the floor to condemn the Soviets. Eisenhower, for his part, approved a public statement on 7 May, saying that Washington had not authorized the flight and suggesting it might have been on a reconnaissance mission along the border and strayed off course. This led others in Congress to complain about “rogue” intelligence operations and the need for greater control by the White House.

In fact, when Dulles made his first appearance before the select group of 18 congressmen on 9 May, he was continually pressed to say who had authorized

²¹ *Ibid.*, 395.

²² *Ibid.*, 390, 392.

the ill-fated flight but managed to evade answering the question directly. At a news conference two days later, Eisenhower, without discussing the flight *per se* (other than to say the emphasis given it by the Soviets “can only reflect a fetish for secrecy”), attempted to take responsibility generally for US intelligence-gathering activities that he said were necessary to prevent surprise attack and to make effective preparations for the country’s defense.²³

On 25 May, after the Paris summit had collapsed in the wake of Khrushchev’s vehement attack on the U-2 flights, Eisenhower went on television to again take responsibility for “approving all the various programs undertaken by our government to secure and evaluate military intelligence.” At the same time, he said that, while US aircraft were no longer being permitted to fly over the Soviet Union, “new techniques, other than aircraft, are constantly being developed.”²⁴ A congressman from Pennsylvania, presumably reflecting information he had received from the administration, had already announced “that, in a few short months, we will have in orbit observer satellites that can collect all the information to be gleaned by the U-2 plane.”²⁵

After his televised address, Eisenhower expressly rescinded his earlier order and allowed Dulles and other administration officials to testify at congressional hearings on the U-2 program, albeit with certain limitations. The president did not want Congress to be told that he had approved specific missions or what the purpose of those missions had been.²⁶

Subsequently, Dulles testified in closed session before four committees: the Senate Foreign Relations Committee, the House Foreign Affairs Committee, and the CIA subcommittees of the SASC and HASC. In his opening statement before the SFRC, Dulles said it was appropriate for the president to have taken responsibility for the U-2 program, although he admitted he had been prepared “to assume the full measure of responsibility,” if necessary. When pressed by certain senators on whether the CIA had other operations that were equally as hazardous, Dulles replied there were “some,” but only “one or two” that required the president’s knowledge prior to undertaking them. Asked whether any CIA agents had been caught before, Dulles replied, “Oh, yes,” but told the committee that the United States never acknowledged this had occurred.²⁷ The same issue arose before the HFAC, where Dulles expanded upon what he had said earlier:

²³ *Ibid.*, 399.

²⁴ *Ibid.*, 406.

²⁵ *Ibid.*

²⁶ *Ibid.*, 410–11.

²⁷ *Ibid.*, 415.

I don't think the President should be drawn into the ordinary espionage situation. In fact, I would not think of going to consult the President as to whether I should send an agent to [a particular country]. [Most operations] are "disavowable. You send in an agent. You have an operation of this or that kind. Disavow it. Forget it. The President doesn't have to know anything about it."²⁸

In August 1960, as the U-2 controversy was dying down, the United States successfully launched its first reconnaissance satellite. Named CORONA, the project had begun in early 1958 under the joint auspices of the Air Force (principally responsible for the launch of the satellite) and the CIA (principally responsible for development of the on-board camera). It was envisioned that a capsule containing the exposed film would be ejected over the ocean where it would be retrieved before landing. Like the development of the U-2, the funds used to develop the on-board camera came from the Agency's Contingency Reserve Fund, but it is unclear from CIA records whether its subcommittees in Congress were advised of this. While it is likely, after Eisenhower's decision in May, 1960 to terminate U-2 flights over the Soviet Union, that the CIA subcommittees were told what was envisioned to take its place, CIA's own historical account of the CORONA program makes no mention whatsoever of congressional involvement.

The Cuban Missile Crisis: 1962–63

After President Kennedy announced to the world the presence of Soviet offensive missiles in Cuba on 22 October 1962, DCI McCone was summoned to appear twice before joint meeting of the SASC and SFRC and once before a joint meeting the HASC and HAC as the crisis played out over the next six days. In addition the Agency provided individual briefings to 15 members.

While the world breathed a sigh of relief once the Kremlin announced it would dismantle the missiles and return them to the Soviet Union, a few weeks later questions began to be raised about the timing of the president's initial announcement. After the November midterm elections—won by the Democrats—the chairman of the Republican National Committee charged that Kennedy had delayed releasing evidence showing the missiles in Cuba until just before the election in an effort to bring American voters to his side. As many as 20 Republican seats had been lost as a result, he contended. McCone flatly rejected the accusation in appearances before the SAC and HASC subcommittees, saying that intelligence on Cuba "could not have been

²⁸ *Ibid.*, 418.

handled in any way which would have altered the final timing of the policy decision.”²⁹ To provide further assurance, McCone also provided the committees with copies of the internal executive branch report on the crisis.

No sooner had McCone put out that particular fire than he had to contend with charges that CIA had blundered by suspending overhead reconnaissance of Cuba in August 1962, precisely when the first missiles were arriving on the island. A Republican member of the HASC publicly attributed this failure to a rivalry between the Air Force and CIA over control of the U-2 flights and went on to allege that CIA had ignored human intelligence reports indicating something unusual was taking place on the island.³⁰

Although President Kennedy was reluctant to have him do so, McCone testified twice before Congress on this subject: first to the Senate Preparedness Investigating Committee and later to the HASC. In his two-hour briefing to the HASC in late March 1963, McCone denied there had been any dispute with the Air Force, explaining that the delays in U-2 coverage of the island had resulted from bad weather and the administration’s desire to avoid another incident involving the U-2. (A U-2 flight that had strayed over the Sakhalin Islands on 30 August 1962 had drawn protests from the Soviet Union; another had crashed in China on 8 September 1962). The HUMINT reporting, McCone went on to say, was sketchy and often unreliable, and it had constituted but a small fraction of the intelligence weighing on the decision to reinstitute reconnaissance operations. Although neither committee issued a public report on the Agency’s performance, McCone noted after the HASC hearing that the Republican congressman who had made the original allegations “seemed reasonably satisfied” with his explanation.³¹

Contact with Respect to the Nosenko Case: 1967

In December 1961, a KGB officer, Anatoly Golitsyn, defected to the United States. In addition to providing the Agency with a wealth of information about KGB operations, Golitsyn contended that most Soviet defectors were, in fact, agents of the KGB sent to the United States to provide disinformation. In 1964, when another KGB officer, Yuri Nosenko, defected after having cooperated with the Agency for almost two years, Golitsyn claimed that Nosenko was still working for the KGB. This led to a prolonged period, lasting several years, where the Agency attempted to resolve the issue of Nosenko’s bona fides. Nosenko was held in solitary confinement during much of this period

²⁹ Robarge, *John McCone*, 132.

³⁰ CIA draft study, Vol. I, 102–3.

³¹ *Ibid*; Robarge, *John McCone*, 133.

and occasionally subjected to hostile interrogation, in an effort to break him. By mid-1967, the issue had yet to be resolved, and because of the attention the case had drawn within the Agency itself, Legislative Counsel John Maury believed that the CIA subcommittees should be told about it rather than hear of it in some other way.

On August 5, 1967, after obtaining the approval of DCI Helms, Maury briefed one staff member from each of the four CIA subcommittees on the case. According to Maury's memo of the meeting, none showed interest in pursuing it.³²

Nosenko was released from detention in 1968 after the Agency concluded that there was insufficient evidence to show that he was not bona fide.

Helms and the Leaders of the CIA Subcommittees: 1966–73

Helms later acknowledged he had routinely discussed operational matters with the leaders of the CIA subcommittees, albeit on a limited, one-on-one basis. The way he characterized his approach to Senator Russell on such matters was typical.

I would go down with all the documents and I would say, "Senator, we are contemplating such and such a thing," and I wouldn't get very far into it and he'd say, "Dick, do you really think we ought to do this?" And I would say, "Yes, Senator, I do." And the Senator would say, "Well, that's good enough for me."³³

Helms said he was prepared to tell his overseers what they wanted to know, assuming it was relevant to their responsibilities, but would not volunteer information that they did not want to know. He also said there were times—when an operation was “dicey, tricky, or might fail”—that he, as DCI, wanted to “hold hands” with the Congress. Helms put it this way:

Despite all those who say, "Well, you shouldn't talk about secret matters with congressional committees," and all the pomposity that follows this, in our kind of democracy, a [DCI] does need guidance from time to time from people in Congress as to how far he may go in certain kinds of activity. At least he would like to have some advice. When this is not available . . . it makes it slightly difficult for him. In fact, it makes it very lonely indeed. Not that I was unwilling to take on the onus of responsibility. . . . It was simply that I thought

³² CIA draft study, Vol. II, 20.

³³ *Ibid.*, 9.

a better system of relationships between the Agency and Congress should have been arranged.”³⁴

In May 1968, Helms requested that the Agency’s operations directorate set up a system for identifying “nuggets”—examples of operational achievements—suitable for briefing to the CIA subcommittees as part of his annual budget presentation. In fact, Helms used the first two such “nuggets” in his budget presentation to the HAC subcommittee that year. One involved a technical monitoring system in use in South Vietnam; the other, the Agency’s acquisition and exploitation of a Soviet fighter aircraft.³⁵

The practice that Helms began expanded dramatically after the two select committees were established in the mid-1970s and began demanding more detailed budget justifications. Significant operational successes were routinely touted in these annual submissions and, on occasion, would lead to follow-up inquiries by the committees. Given that most of these “success stories” remain classified, however, no further effort is made to identify or describe them here. Suffice it to say, the practice begun by Helms has continued to the present.

The Church Committee’s Investigation of CIA Domestic Activities: 1975–76

During the summer of 1967, at a time when racial unrest and antiwar sentiment were escalating around the country, President Johnson ordered DCI Helms to ascertain whether foreign agents, principally communists, were fomenting such unrest. (Johnson clearly believed they were.) To accomplish this task, Helms established a special unit within the Agency’s Counterintelligence Staff that began collecting and analyzing information about individuals and groups involved in such activities. Although the special unit never found credible evidence of foreign involvement, at the insistence of the White House, it kept looking.³⁶ Indeed, this effort steadily intensified and, with the backing of Helms, lasted for almost seven years, terminated by DCI Colby in March 1974. By that point, the program had accumulated files on more than 7,000 American citizens and 6,000 political groups.³⁷ Most of this information had come from the FBI, but the Agency had also recruited agents to infiltrate a number of domestic organizations.³⁸

³⁴ Helms interview, 3 June 1982.

³⁵ CIA draft study, Vol. II, 24.

³⁶ Hathaway and Smith, *Richard Helms*, 16–21.

³⁷ Ford, *William E. Colby*, 85

³⁸ Hathaway and Smith, *Richard Helms*, 18.

The program had been controversial within the Agency from its inception, and to ensure it was not disclosed, the Agency created a special compartment (MHCHAOS) to protect its operations and analytical products.³⁹ In May 1973, in response to DCI Schlesinger's direction that CIA employees identify any activity undertaken by the Agency that might arguably violate its charter (see chapter 1), the CHAOS program figured prominently in employees' responses.

But it was not the only questionable activity CIA employees cited in the 793-page compilation that became known as the "Family Jewels." Also identified were CIA surveillance and bugging of US journalists to discover who was leaking sensitive information to them; a mail-opening program undertaken for the same purpose; drug experiments on unwitting subjects; assistance to local law enforcement; and involvement in assassination plots against Fidel Castro, Patrice Lumumba in the Congo, and Rafael Trujillo in the Dominican Republic.⁴⁰

On 22 December 1974, a year and a half after the "Family Jewels" were compiled, they formed the principal basis for a front-page story in the *New York Times* charging that the Agency had engaged in a massive program of domestic spying.⁴¹ The article stunned members of Congress, leading both houses to create special investigating committees (the relationship between the Agency and these committees is covered in chapter 1).

The Senate acted first, creating a committee chaired by Frank Church (D-ID) to investigate any "illegal, improper, or unethical" activities of the US Intelligence Community, including "the conduct of domestic intelligence or counter-intelligence operations against US citizens."⁴² Indeed, a major part of the committee's effort was devoted to investigating the Agency's domestic activities identified in the "Family Jewels" report: the MHCHAOS program, drug testing on unwitting subjects in the United States, and mail-opening and electronic surveillance to determine the source of leaks. The committee also explored the extent of the Agency's involvement in the formulation and execution of the so-called Huston Plan, an effort mounted by the Nixon administration in 1970 to mobilize intelligence agencies to collect on US citizens opposed to the administration's policies.⁴³

³⁹ Ibid., 18–21.

⁴⁰ On 26 June 2007 the CIA released a 700-page collection of documents known as the "Family Jewels," which are available at the FOIA electronic reading room at www.foia.cia.gov. For further insider comments on the Family Jewels see Dujmovic, "Reflections of DCIs Colby and Helms," *Studies in Intelligence*, Vol. 51, no. 3.

⁴¹ Hersh, "Huge CIA Operation Reported in US Against Anti-War Forces."

⁴² CIA draft study, Vol. II, 63, 82.

⁴³ Ibid., 84.

While the Agency attempted to cooperate with the Church Committee's investigation of its domestic activities, it nevertheless drew a line at the outset, according to former legislative liaison, John Warner, at providing specific operational data.

At one point, we were asked [by the Church Committee] for a list of all real estate [the Agency] owned or leased. Well, that's a list of safe houses [and] we said, "You're not going to get it" . . . and we explained it to them and they seemed to understand. . . . Plus we were not going to give them names of any agents. That's basic.⁴⁴

In its final report, the Church Committee recommended that the Agency's statutory charter be revised to make clear that its activities were confined to the gathering and analysis of foreign intelligence. While the committee recognized that the Agency had to carry out certain activities within the United States, they must be in furtherance of its foreign intelligence mission.⁴⁵

The Church Committee's Look at Liaison Relationships: 1976

The Church Committee also looked into intelligence liaison relationships, the first time that a committee of Congress had ever done so. The specific issue that prompted this review was whether CIA was complying with the Case Act, a law that required the Congress be notified of international agreements. DCI Colby had issued a blanket statement in 1974 that the Agency was not party to any international agreement that needed to be reported to Congress under the statute. The Church Committee did not take issue with this opinion per se but found that the Agency had no process for systematically reviewing its agreements with foreign intelligence services for this purpose. While the committee found liaison relationships critical to the Agency's operational mission, it recommended that CIA be prohibited by statute from using foreign intelligence services to undertake actions that were forbidden to the Agency itself. It also recommended, whether or not the Case Act was applicable, that the oversight committees of the Congress be kept fully informed of agreements being negotiated with other governments using intelligence channels.⁴⁶

⁴⁴ Warner interview, 9 October 1987, 2.

⁴⁵ CIA draft study, Vol. II, 101–2.

⁴⁶ *Ibid.*, 103.

The Pike Committee's Treatment of Operational Issues: 1975–76

While covert action received considerable attention (see chapter 9), relatively little of the House of Representatives' counterpart investigation—the Pike Committee—concerned the Agency's collection operations. The committee left the investigation of the “Family Jewels” to the Senate. In fact, some on its staff believed the Agency was deliberately trying to get them to focus on the same set of allegations as the Church Committee, to keep them out of other areas.⁴⁷ The former counsel for the Pike Committee later said the Agency had tried to divert them from their purpose by exposing them to the more exotic aspects of espionage operations. “They wanted to put on shows for us,” he recalled. “This was to distract us. They wanted to fly us down . . . to see how CIA people are trained. . . . They offered to let us see secret movies of foreign officials in compromising circumstances. We could have had that forever.”⁴⁸

The Pike Committee ultimately held four days of hearings on domestic intelligence-gathering, none of which directly involved the CIA. The committee did look superficially into the Agency's procurement practices—its members were upset that the Agency had purchased limousines, golf hats, golf stroke counters, and putters. The committee also raised concern about detailing CIA employees to other agencies, a practice it perceived as infiltrating “spies throughout the government,” and recommended against the Agency's use of journalists to provide operational cover.⁴⁹ Congress took no action with respect to these recommendations.

Early Involvement of the SSCI in Operational Matters: 1976–80

In July 1976, a few weeks after the SSCI was created, its staff leaders met with Agency representatives to discuss the committee's access to Agency information. Among other things, according to an Agency memorandum of the meeting, the committee staff agreed that the Agency should “protect fully” the identities of its human assets.⁵⁰ Apparently, the staff agreed that this was not the kind of information it would need to conduct oversight.

Later the same year, the requirements of the Case Act again became an issue. In response to a query from the chairman of a Senate judiciary subcommittee, a State Department lawyer had stated that, in his opinion, two international agreements involving the Agency and a foreign intelligence service

⁴⁷ Smist, *Congress Oversees*, 176.

⁴⁸ *Ibid.*, 177.

⁴⁹ *Ibid.*, 200; CIA draft study, Vol. II, 150.

⁵⁰ CIA draft study, Vol. II, 178.

required reporting to Congress. Although the Agency objected to this opinion and sought support from the White House to quash it, Agency representatives subsequently agreed that the leaders of the SFRC and HFAC would be advised of the agreements in question, which would then be stored at the intelligence committees where access would be severely limited.⁵¹ Insofar as future agreements were concerned, it was agreed the SSCI could receive oral, off-the-record briefings that would identify the country involved, summarize the US involvement, and where necessary, describe the results of such cooperation. It is not clear, however, whether such briefings were actually provided.⁵²

While the committee apparently stood by its earlier agreement that the identities of the Agency's human sources be protected, in 1978 it requested that the Agency provide "voluminous and detailed" information on its clandestine collection activities. This provoked considerable concern within the Agency. One Agency officer argued that if the request were accommodated, it would give the SSCI an ability to "micromanage" and "second-guess" the Agency's overseas operations that it did not now have. Conceding that the committee's understanding of its operations was "murky," he recommended that the Agency attempt to explain its internal decisionmaking process to the committee rather than "laying bare our entire covert collection apparatus." In fact, after its concerns were raised with the committee's staff director, the SSCI backed off its initial request and established a three-member subcommittee, assisted by two senior staff members, to do oversight of clandestine collection.⁵³

The first significant test of the committee's ability and intent to protect operational information came in 1979–80 as part of the Senate's consideration of the Strategic Arms Limitation Treaty II (SALT II) that, among other things, set numerical limits on the number of long-range bombers and missiles the United States and Soviet Union could maintain and limited each country to one land-based missile system. While the treaty had formally been referred to the SFRC for consideration, that committee asked the SSCI to assess whether the Intelligence Community had sufficient capabilities to monitor Soviet activities under the treaty and to make these findings available to the full Senate. The SSCI had, in turn, requested detailed information about all of the collection capabilities of the Intelligence Community, including the CIA's human and technical capabilities, that could contribute to treaty verification. According to CIA records, DCI Turner was initially "terrified" about the prospect of putting such information together in one place, but in the end he arranged for the SSCI to have access to the information it required to make its assessment.

⁵¹ *Ibid.*, 183.

⁵² *Ibid.*, 246.

⁵³ *Ibid.*, 180–81.

The committee, in turn, protected the information it was given and produced a short, unclassified report of its findings for the Senate that confirmed the Intelligence Community's capabilities were adequate to verify the treaty. At the same time, the leaders of the committee wrote to President Carter, encouraging him to fully fund the DCI's requested enhancements to these capabilities in the forthcoming budget submission.⁵⁴

Senate consideration of SALT II was halted in December 1979 as a result of the Soviet invasion of Afghanistan, but what the SSCI had been able to achieve stood as a watershed to many in the Congress as well as the Agency. For the first time, the committee had been given access to and allowed to store highly classified information that it had not only managed to protect but had competently analyzed and presented to the Senate as a whole.

Early HPSCI Involvement in Operational Matters: 1977–80

Coming along 14 months after the SSCI, the HPSCI, as a practical matter, found itself contending with what its Senate counterpart had earlier agreed to. Documents classified above the secret level were to be stored at the Agency. The Agency also contended, as it had with the SSCI, that some information, such as the identities of human agents, was so sensitive it could not be shared with the committee. In November 1977, the new chairman of the HPSCI, Edward Boland (D-MA), wrote to DCI Turner challenging the notion that there was any information that, as a matter of principle, should be considered off-limits to the committee. When Turner responded in a letter to Boland that there were certain sensitive details that, as a result of "statutory responsibilities and conscience," he could not share with the committee, other HPSCI members took issue. Rather than continuing to assert his previous position, Turner agreed to brief Boland and senior staff of the HPSCI on especially sensitive matters that might arise in the future, implying they would then decide how such information would be treated within the committee as a whole.⁵⁵

In his letter to Turner, Boland also made clear that he expected the committee to be informed of "sensitive intelligence collection operations" and to receive detailed written summaries of all intelligence agreements with foreign nations, written or oral, whether they were covered by the Case Act or not. While Turner responded that he was committed to serving the committee's needs, he was vague in terms of how these requirements would be met.

⁵⁴ *Ibid.*, 190–94.

⁵⁵ CIA draft study, Vol. II, 228–31.

Indeed, he ignored altogether Boland's request for summaries of intelligence agreements.⁵⁶

In July 1978, however, the HPSCI staff director reiterated the committee's request for detailed briefings on written intelligence agreements with other governments that entailed a substantial commitment on the part of the United States. Of particular concern to the committee was whether the Agency was doing things through its liaison relationships that it would not otherwise be entitled to do, such as providing training or technical advice to foreign services engaged in monitoring or stifling internal dissent or committing human rights abuses.

The Agency, nevertheless, strongly resisted the committee's request, arguing that it could "very possibly lose the cooperation of foreign intelligence services if they found out we were briefing Congress on those relationships." Asserting that specific information concerning these relationships was not necessary for Congress to perform its oversight function, Agency representatives said the most they could provide were generic descriptions of what these relationships involved and what they produced, without identifying specific services or, indeed, the country involved. Liaison relationships were themselves "sources and methods," they contended, that would not ordinarily be briefed in detail to the committees.⁵⁷

Although the disagreement took several months to work out, the HPSCI ultimately agreed in October 1978 to accept generic briefings concerning liaison relationships that did not specify either the service involved or the nature of the cooperation.⁵⁸

Executive Order 12333 and Limits on Domestic Activities: 1981

The Carter administration had issued an executive order in the wake of the Church and Pike Committee investigations that, among other things, required the domestic activities of US intelligence agencies, including the CIA, to be carried out in accordance with procedures approved by the attorney general. By the time the Reagan administration took office in 1981, these procedures had been in place for several years, and copies had been provided the two intelligence committees.

As one of its first orders of business, the Reagan administration set about to issue its own executive order on intelligence, ostensibly to loosen the restric-

⁵⁶ *Ibid.*, 245.

⁵⁷ *Ibid.*, 247–48.

⁵⁸ *Ibid.*, 248.

tions on domestic intelligence-gathering that had been put in place. Although there was no legal requirement to do so, DCI Casey shared drafts of the proposed order with each intelligence committee in an effort to ensure they did not react negatively when the new order was issued. Each had concerns with the draft that were addressed in the executive branch process. The HPSCI also insisted that the new implementing procedures each intelligence agency was required to promulgate be shared with it and asked Casey to provide a semi-annual report on the use of “special collection techniques” within the United States, for example, electronic surveillance and infiltration of domestic groups.⁵⁹ Neither committee, however, launched a major protest when the new order—Executive Order 12333—was issued.

SSCI Inquiry into “Death Squads” in El Salvador: 1984

In 1980, right-wing elements of the Salvadoran National Guard murdered four Roman Catholic nuns. These killings were followed by the murders of a Salvadoran land reform leader and two US agricultural advisers, apparently the work of the same right-wing elements.

In 1984, press stories appeared in the United States alleging that the CIA had been involved in supporting these right-wing “death squads,” and in an effort to head off legislation cutting off US assistance to El Salvador, SSCI Chairman Barry Goldwater announced the committee would investigate. It held several closed hearings on the matter, and its staff was given access to pertinent operational files of the Agency. In October, the committee released a summary of its findings to the public. It found that the Agency worked regularly with both the intelligence service and national police of El Salvador and that the Agency had had contact with certain of the Salvadorans thought to have been involved in the violence. But it found “no evidence to support the allegation that elements of the US government have deliberately supported, encouraged, or acquiesced in acts of political violence in El Salvador, including extreme right-wing death squad activity.” Indeed, the committee said it had found “substantial material” indicating the CIA had attempted to ameliorate the political violence in El Salvador.⁶⁰

⁵⁹ CIA draft study, Vol. III, 10.

⁶⁰ *Ibid.*, 49–50.

HPSCI Inquiry into Cuban Operations: 1987

In September, 1987, a Cuban intelligence officer who had defected to the United States told the Agency that virtually all of its Cuban operations over the preceding 15–20 years had been controlled by Cuban intelligence. After evaluating this report and concluding it was probably correct, the Agency notified both intelligence committees.

The news stunned the HPSCI in particular, which immediately held a closed hearing to find out how this could have happened. What followed was a painstaking review by the committee of the Agency's operations in Cuba and, in particular, measures the Agency used to vet its sources there. After its review, the committee told DCI Webster that the Agency needed to revamp its entire procedure for vetting human sources, something Webster promised to personally follow up on.⁶¹

HPSCI Inquiry into the Agency's Relationship with Manuel Noriega: 1988

Both intelligence committees were aware that CIA had had a relationship with Panamanian strongman Manuel Noriega for many years. He had been an anticommunist and a supporter of the Reagan administration's efforts to oust the Sandinistas in Nicaragua. Indeed, DCI Casey had met openly with him on three occasions between 1983 and 1986. In the late 1980s, however, Noriega's connection with international drug rings had been the subject of a Senate investigation as well as several press exposes. In February 1988, the US Justice Department indicted him in Florida on drug-trafficking charges. This, in turn, prompted the HPSCI to inquire into precisely what the Agency's relationship with Noriega had been and, in particular, the extent of its knowledge or awareness of his drug-trafficking activities. While no public report was made of this inquiry, the Agency made available the records documenting its prior relationship.⁶²

The SSCI's Consideration of Arms Control Treaties: 1987–92

As the SSCI had done earlier with respect to SALT II, it undertook in 1987 a comprehensive review of the Intelligence Community's capabilities to monitor the provisions of the INF treaty the Reagan administration had negotiated with the Soviet Union and referred to the Senate for ratification. Like the ear-

⁶¹ *Ibid.*, 181–82.

⁶² *Ibid.*, 195–96.

lier effort, this involved a review of the Agency's technical and human source capabilities to collect pertinent information, as part of the Community's broader capability.

In this case, however, the committee produced a 350-page classified report that raised concerns about the Community's ability to monitor certain aspects of the treaty. As a result, the administration renegotiated portions of the treaty, including a clarification of the US rights to conduct on-site inspections. With such clarifications, the Senate ratified the treaty, and the Reagan administration committed to fund additional collection capabilities.⁶³

During the next Congress, the SSCI considered two other arms control treaties being negotiated with the Soviets: the Threshold Test Ban Treaty and the Treaty on Peaceful Nuclear Explosions. In 1991, the Strategic Arms Reduction Treaty (START) was before the Senate. On each of these occasions, the issue for the committee was again whether the treaties at issue could be adequately monitored by US intelligence.⁶⁴

The SSCI's Reviews of CIA Support to Military Operations: 1990–91

In early 1990, in the wake of the military operation known as JUST CAUSE, undertaken by the Bush administration to capture Panamanian strongman Manuel Noriega after his indictment on drug trafficking charges and free a CIA employee being held in a Panamanian jail, the SSCI conducted a review of the intelligence support CIA had rendered to the operation in advance of its execution. This entailed looking at not only the assets the Agency had in Panama but also the quantity and quality of their reporting bearing upon the anticipated operation. Responding to what it saw as a serious disconnect between the Agency and the military commands responsible for planning and carrying out JUST CAUSE, the SSCI placed language in the FY 1991 Intelligence Authorization Bill requiring that the DCI create a new position within his staff, to be filled by a general or flag officer, to improve the flow of information between the Agency and military commands around the world. With the support of the Armed Services Committees in each house, the provision became law in November 1990.⁶⁵

Several months later, Operation DESERT STORM to oust Iraqi forces from Kuwait began (see chapter 7 for a discussion of the intelligence assessments prior to and during the war). The operation took 42 days, 38 of which were

⁶³ Smist, *Congress Oversees*, 272.

⁶⁴ *Ibid.*, 274, 289.

⁶⁵ *Ibid.*, 285.

consumed by airstrikes. When the land war was launched, Iraqi forces were sent into a hasty retreat by the invading coalition forces, which suffered a minimum number of casualties. In the aftermath of the operation, the CENTCOM commander in charge of the operation, GEN Norman Schwarzkopf, publicly criticized the intelligence support he had received from the CIA during the operation.⁶⁶ This criticism, in turn, prompted the SSCI to investigate precisely what CIA's role had been. No public report of its findings, however, was ever issued.

The SSCI's Banca Nazionale del Lavoro Investigation: 1992–93

In June 1992, an employee of the Atlanta branch of an Italian bank, Banca Nazionale del Lavoro (BNL), pled guilty to a 347-count federal indictment charging him with an elaborate scheme to defraud the parent bank as well as the US government by arranging for more than \$4 billion in unauthorized loans to the Iraqi government.

At the sentencing hearing in September 1992, the bank employee's attorney alleged that he was merely a pawn in an operation that senior officials of the parent bank in Rome had been aware of. He further alleged that the CIA had information that would confirm this allegation, citing statements to this effect that had been made on the floor of the House of Representatives by the chairman of the House Banking Committee. This, in turn, prompted the SSCI to explore the situation.

The ensuing investigation did identify several CIA reports that seemed to show that BNL officials in Rome had known of the fraud. Some, in fact, had been written after the federal criminal investigation of the Atlanta branch bank had begun. This raised several issues for the committee: (1) the propriety of using intelligence sources to collect law enforcement information for an ongoing criminal investigation; (2) whether the Agency had adequately informed, or misled, the Justice Department regarding the information in its possession; and (3) whether the Agency and/or the Department of Justice had adequately informed, or misled, the federal court in Atlanta, as well as the defendant himself, of the information that was known to them.

After a lengthy investigation, involving a complex set of facts, the committee concluded there had been no intentional malfeasance on the part of the Agency officers involved; however, the need for better guidance to govern such situations as well as closer coordination with the Department of Justice was apparent.⁶⁷

⁶⁶ Moore, "Schwarzkopf: War Intelligence Flawed."

The Guatemala Inquiries and their Aftermath: 1995–96

In January 1995, the Agency told the staff of the intelligence committees for the first time that it had received an intelligence report in October 1991 alleging that one of its assets within the Guatemalan Army, a Colonel Alpirez, had been present at the June 1990 murder of an American expatriate living in Guatemala, Michael DeVine.⁶⁸ The Agency had reported this allegation to the Department of Justice when it first received it in 1991 but not to the committees. Nor did the Agency make it available anytime during the intervening four years, despite several opportunities to do so when Agency representatives had met with the committees or their staffs to discuss its operational activities in Guatemala. Initially, both committees perceived a deliberate effort to withhold pertinent information from them. Indeed, the SSCI took the unusual step of holding a public hearing on the matter to demonstrate its displeasure with the Agency's performance and cast doubt on its explanation to the committee. Acting DCI William O. Studeman said he regretted the committees had not been told of the 1991 report but that it had not been deliberately withheld.⁶⁹ The committee subsequently held two closed sessions to explore the matter.

The Agency did not contest the committees' contention that the 1991 intelligence report was something that should have been briefed to them pursuant to the "fully and currently informed" language in the 1980 Intelligence Oversight Act; in fact, it was able to point to briefing notes that had been prepared at the time indicating it intended to do so. Why the briefer had omitted this from his oral presentation was not clear. Moreover, it was unclear why the matter had not surfaced at subsequent meetings with the committee staff, at least one of which specifically concerned the Agency's knowledge of Guatemala's human rights record.

While subsequent investigation—by the committees, the CIA Inspector General, and the Intelligence Oversight Board at the White House—did not conclusively establish a deliberate intent on the part of the CIA employees involved to withhold information from the committees, they were found derelict insofar as they had allowed this to happen. DCI Deutch disciplined 12 CIA officers for this failure, forcing two to retire.

After the initial flurry of activity regarding the DeVine case, the committees also wanted to know what the Agency may have known about the alleged

⁶⁷ Senate Select Committee on Intelligence, *The Intelligence Community's Involvement in the Banca Nazionale del Lavoro (BNL) Affair*.

⁶⁸ For a detailed description of the matter, see the public report of the Intelligence Oversight Board, *Report on the Guatemalan Review*, 28 June 1996.

⁶⁹ Studeman, Statement before the Senate Select Committee on Intelligence, Subject: Guatemala, 4 April 1995.

murders, torture, or disappearances since 1984 of nine other Americans who had lived in Guatemala. In addition, the SSCI asked the CIA inspector general to review all of the Agency's operational assets in Guatemala since 1984 to ascertain the extent to which the Agency was aware of their possible involvement in human rights abuses. This investigation took several years to complete and was ultimately shared with the committees.

CIA Use of Journalists, Clergy, and Peace Corps Volunteers: 1996

Responding to a recommendation of a task force of the Council on Foreign Relations that the Agency's policy on the operational use of journalists, clergy, and Peace Corps volunteers should be re-examined, the SSCI held a public hearing in February 1996, on this issue.⁷⁰ DCI Deutch testified that although it had not been the Agency's policy or practice for many years to use the affected groups for operational purposes, it would be unwise to foreclose such use altogether.⁷¹ After hearing from representatives of the groups involved, the committee inserted language in the FY 1997 intelligence authorization bill stating that it was the "policy of the United States" that journalists would not be used for "purposes of collecting intelligence." However, the new law provided that the president or the DCI could waive this policy, so long as the two intelligence committees were advised. The law also said it should not be construed to prohibit "the voluntary cooperation of any person."⁷² This action essentially left in place the existing policy with respect to operational use of clergy and Peace Corps volunteers.

Alleged Involvement in Crack Cocaine Sales in Los Angeles: 1996–2000

In August 1996, a California newspaper, the San Jose *Mercury News*, ran a three-day series entitled "Dark Alliance: The Story behind the Crack Explosion" that purported to trace the origins of the crack cocaine epidemic in Los Angeles in the early 1980s to a pair of Nicaraguan drug dealers who had connections with the US-backed "contras." The articles alleged, in fact, that the two Nicaraguans had sold cocaine to a drug dealer in south Los Angeles as a way of raising money for the contras. The dealer then allegedly turned the powder into "crack cocaine" and sold it in predominantly African-American

⁷⁰ Since the mid-1970s, use of these groups for operational purposes had required the approval of the DCI.

⁷¹ Senate Select Committee on Intelligence, *CIA's Use of Journalists and Clergy in Intelligence Operations*, 6–7.

⁷² §309 of Public Law 104-293.

neighborhoods. The articles did not specifically allege that CIA was involved in, or even knew of, the alleged sales, but they did contend that the ability of local law enforcement authorities to investigate the drug dealers involved had been “hampered by the CIA or unnamed national security interests.”

The Agency’s role in supporting the contras in Nicaragua during the early 1980s was, at this juncture, well known. Thus, the possibility that an agency of the federal government might have somehow been complicit in, or bear responsibility for, sales of crack cocaine within the United States created an immediate sensation. And even though other newspapers immediately began to raise doubts about the allegations and the Agency’s initial efforts to find information bearing on the allegations turned up nothing, both the SSCI and the HPSCI launched investigations, as did the inspectors general at CIA and the Department of Justice.

Indeed, the investigations carried out by the HPSCI as well as the CIA inspector general far exceeded the questions raised in the original newspaper series. The Agency’s relationship with each of the contras they had worked with during the 1980s was examined to ascertain whether they were involved in drug-trafficking and, if so, whether the Agency had been aware of and/or abetted such activities. After reviewing “tens of thousands of pages” of documents and interviewing “hundreds” of officials, the HPSCI concluded in May 2000, that the allegations raised by the *Mercury News* were false. Rather than hamper the investigation of drug traffickers within the United States, they noted, CIA had routinely assisted such investigations.⁷³

Although the Agency was ultimately vindicated, it had taken almost four years for the HPSCI to determine that the allegations were false. By this point, many in the public had long since accepted them as true.

CIA’s Role in the Accidental Bombing of the Chinese Embassy in Belgrade: 1999

In May 1999, as part of the NATO air campaign against Serbia, US military aircraft accidentally bombed the Chinese embassy in Belgrade. The building was severely damaged, and three Chinese nationals were killed. The incident provoked a formal protest from the Chinese government and led to violent demonstrations at US diplomatic facilities in China.

In the aftermath of the bombing, it was ascertained that the embassy had been mistakenly targeted by the CIA. Given the opportunity by the Pentagon

⁷³ See Press release, House Permanent Select Committee on Intelligence, “Evidence Does Not Support Allegations of CIA Participation in Drug Trafficking,” 11 May 2000.

to recommend targets for the bombing campaign, CIA had nominated what it thought was a supply and procurement agency for the Yugoslav military. While the CIA had the correct street address for the agency, one of its contract officers had mislocated it on the map he was using and provided the wrong geographical coordinates to the military. As it turned out, the coordinates identified not the Yugoslav procurement agency but the Chinese embassy, which was located several blocks away on the same street. Despite elaborate target validation procedures in place at both the Pentagon and in Europe at the time, the error was not caught.

In July, after an internal investigation by the CIA inspector general, DCI Tenet was summoned to testify in closed session before the HPSCI, assuring it that the Agency's procedures had been tightened to prevent a similar mistake in the future. He also indicated he was considering disciplinary action against those employees whose performance had been deficient.⁷⁴ He provided similar assurances to members of the SSCI. The contract officer was fired. Neither committee pursued the matter further.

SSCI Inquiry into the Shootdown of a Civilian Aircraft in Peru: 2001

During the latter half of the 1990s, both committees regularly reviewed the assistance CIA was providing to certain South American governments to help them counter the production of narcotic drugs in their respective countries and prevent them from reaching the United States. For the most part, the committees were interested in the type of assistance being provided, the extent to which Agency personnel were being put at risk by such activities, and how successful such joint efforts had been.

In April 2001, however, the focus of the SSCI shifted to the shootdown of a civilian aircraft in Peru. A Peruvian fighter plane had fired on and disabled a small airplane that the pilot believed to be involved in drug trafficking operations. It turned out that the aircraft was owned by the Association of Baptists for World Evangelism and was returning missionaries to their home base. The gunfire killed one of the missionaries and her infant daughter and wounded a third. CIA officers, participating in the bilateral drug interdiction program, had been tracking the missionaries' plane from their own small aircraft (with a Peruvian government rider aboard) and had called in the Peruvian military fighter that ultimately launched the attack. As a result of the incident, the air interdiction program in Peru was suspended indefinitely.

⁷⁴ Tenet, "Statement on the Belgrade Chinese Embassy Bombing."

The SSCI held two closed hearings on the Peruvian matter and had its staff conduct an independent follow-up investigation. In October 2001, it issued a detailed report of its findings. It found that the CIA-operated aircraft had tried to make contact with the missionary airplane and that the CIA personnel aboard had tried to dissuade the Peruvian rider aboard from seeking authority for the Peruvian fighter to attack the missionary plane; it also found that relatively poor language skills of the CIA personnel involved contributed to the confusion that occurred. And it found a lack of awareness and involvement on the part of US officials with respect to the air-interdiction operation as well as a failure to appreciate and address the risks involved. Among other things, the committee recommended that the executive branch reassess whether CIA's responsibility for this kind of assistance be transferred to other agencies of the US government.⁷⁵

Operational Issues in the Joint Report on 9/11: 2002

As discussed in chapter 2, the terrorist attacks of 9/11 prompted the two intelligence committees to undertake, for the first time in their history, a joint investigation into the activities of the Intelligence Community. Although CIA was but one of a number of intelligence agencies whose activities before and after the attacks were subject to investigation, all three of its mission areas—analysis, collection, and covert action—were examined in the course of the inquiry. In this chapter, the findings and recommendations of the committees with respect to operational matters are summarized.

The joint inquiry focused specifically on what CIA had known about the 19 hijackers who had carried out the attacks and, more generally, on the Agency's efforts to collect against al-Qa'ida.⁷⁶

With regard to the hijackers, the joint inquiry found that CIA, in early January 2000, had learned that two men thought to be connected with the embassy bombings in Kenya and Tanzania that had occurred in August 1998—Khalid al-Mihdhar and Nawaf al-Hazmi—were traveling to Malaysia for a meeting. A third individual, thought to be al-Hazmi's younger brother, Salem, was traveling to the same meeting. (All three turned out to be future hijackers.) Once the three men arrived in Malaysia, CIA was able to photograph them, as well as other participants at the meeting. The Agency was also able to obtain a photocopy of al-Mihdhar's Saudi passport, showing that he had obtained a visa to the United States that would expire four months later.

⁷⁵ Senate Select Committee on Intelligence, *Review of United States Assistance to Peruvian Counter-Drug Air Interdiction Efforts and the Shootdown of a Civilian Aircraft on April 20, 2001*.

⁷⁶ *Joint Inquiry into the Terrorist Attacks of September 11, 2001*, 128–67.

Although this information was passed to Agency Headquarters, no one placed al-Mihdhar's name, or the names of the other participants at the Malaysia meeting, on the State Department's visa watchlist, which might have prevented them from entering the United States. In fact, on 15 January 2000 al-Mihdhar and Nawaf al-Hazmi flew to Los Angeles, where they entered the United States with tourist visas and rented an apartment in San Diego. The Agency learned in early March that al-Hazmi had entered the country, but again his name was not added to the State visa watchlist, nor was any effort made to locate him. The Agency did not know the whereabouts of al-Mihdhar at that point.

In October 2000, a US warship, the USS Cole, was bombed in the port of Aden, South Yemen, by terrorists who pulled alongside the ship with a boatload of explosives. In December 2000, after several months of investigation, the FBI developed information that a key planner of the attack had been at the January meeting in Malaysia. This brought renewed attention on the other participants at the earlier meeting, including al-Mihdhar and the al-Hazmi brothers, but again the Agency failed to place their names on the State Department's visa watchlist. In fact, in June 2000, unbeknownst to the Agency, al-Mihdhar had left the country and his visa had expired, forcing him to obtain a new one before he returned to the United States, which he did on 4 July 2001.

Finally, in August 2001, three weeks before the attacks in New York and Washington, an FBI analyst detailed to CIA put the earlier information together and was able to confirm that al-Mihdhar and al-Hazmi had entered the country together in January 2000 and that al-Mihdhar had left in June 2000 and returned in July 2001. There was no record of al-Hazmi leaving the country. On the basis of this information, their names were at last placed on the State Department's visa watchlist, and at the end of August the FBI began searching for them. "The CIA's failure to watchlist [these] suspected terrorists aggressively," the joint inquiry later concluded, "reflected a lack of emphasis on a process designed to protect the homeland from terrorist attack."⁷⁷

With regard to the Agency's efforts to collect against al-Qa'ida prior to 9/11, the joint inquiry explored a wide range of issues: whether adequate resources had been sought and dedicated to such collection; whether the Agency had relied too heavily upon foreign liaison services; whether its unilateral efforts to recruit assets targeted against al-Qa'ida were adequate; and whether its technical collection efforts against al-Qa'ida had been effective.

⁷⁷ *Ibid.*, 33.

In each area, deficiencies were identified. Resources put against the target had been insufficient, the committees found, and the Agency had relied too heavily upon supplemental appropriations to fund its counterterrorism activities (making it difficult to plan for them). There was too much reliance on liaison services, especially prior to 1999. Even though the Agency had managed to recruit several unilateral sources within al-Qa'ida prior to 9/11 and a number of sources within Afghanistan who reported on the movements of Usama bin Ladin and other al-Qa'ida leaders, it was never able to penetrate bin Ladin's inner circle. The Agency had mounted technical collection against bin Ladin, but these efforts had produced relatively little.⁷⁸

Inquiries into Counterterrorism Activities: 2003–2004

After issuing their joint report on the 9/11 attacks, both committees continued to make the Intelligence Community's counterterrorist activities a principal focus. The HPSCI, in particular, held hearings on collection against the terrorist threat in 2003, which were followed up a year later with hearings on the importance of interrogation in obtaining information from terrorists.

According to former OCA Director Moseman, however, neither committee showed much interest in pursuing the issues associated with the capture and handling of detainees either before or after 9/11—renditions, abusive interrogations, or the treatment of detainees. "They were briefed on these things," Moseman recalled, "but there was very little follow-up. . . . There just didn't seem to be much interest up there." Whether their reluctance was politically motivated (the desire not to embarrass the incumbent Bush administration) or stemmed from the committees' distaste for involving themselves in such issues (raising concern for the treatment of terrorists), Moseman said he did not know.⁷⁹

Operational Issues in the SSCI's Inquiry into the Prewar Intelligence Assessments on Iraq: 2004

Although the SSCI's in-depth inquiry into the prewar intelligence assessments on Iraq dealt primarily with the Agency's analytic performance (see chapter 7), the committee also examined the Agency's collection effort in prewar Iraq. Collection on each of the two main issues considered in the committee's report—Iraqi WMD programs and Iraqi links to terrorist groups—was separately evaluated.

⁷⁸ Ibid, 250–307.

⁷⁹ Moseman interview, 28 December 2006.

In the case of collection on Iraqi WMD programs, the committee explored (1) the nature and extent of the Agency's capabilities while UN weapons inspectors had been stationed within the country (1991–98), (2) the actions the Agency had taken to improve its collection on Iraqi WMD after the inspectors had left, and (3) the actions the Agency had been taken in 2002 and 2003, once it was apparent the United States was moving toward war with Iraq. To assess these issues, the committee requested and was provided information concerning the Agency's unilateral assets as well as information it was receiving from foreign liaison.

In its final report, the committee found that the Intelligence Community had relied too heavily upon the UN inspectors between 1991 and 1998 for information on Iraqi WMD programs, failed to mount sufficient unilateral operations while the inspectors were there, and failed to give sufficient priority to recruiting new assets after they had left. Instead, the committee found, the Community relied too heavily on defectors being handled by foreign liaison services, which made source credibility difficult to evaluate. While the Agency "dramatically picked up the pace" of HUMINT collection in the summer of 2002 once it became clear that war with Iraq was in the offing, it was never able to recruit sources with personal knowledge of Iraq's WMD programs. While the committee recognized that the lack of an official US presence inside Iraq and the heavy Iraqi security presence made operational activity difficult to mount and sustain, it believed a more aggressive effort should have been made.⁸⁰

With respect to Iraqi links to terrorist groups—in particular, al-Qa'ida—the committee examined the relevant HUMINT reporting that had come in during the years preceding the war. Virtually all of it, they found, had come from detainees, defectors, opposition groups, and foreign intelligence services, not the Agency's own targeted collection effort. While this reporting provided historical context of the Iraqi regime's contacts with known or suspected terrorist groups, it provided little evidence of an operational relationship with such groups. It was only in the summer of 2002, the committee found, that the Agency designed and carried out a focused collection strategy to develop information on this issue.⁸¹

⁸⁰ Senate Select Committee on Intelligence, *US Intelligence Community's Pre-War Intelligence Assessments on Iraq*, 258–71.

⁸¹ *Ibid.*, 350–55.

HPSCI Criticism of the DO: 2004

The shortcomings that were evident to the SSCI in terms of collection on Iraq also motivated the HPSCI to use uncharacteristically harsh language in the public report accompanying its markup of the Intelligence Authorization Act for Fiscal Year 2005 to lambaste the Directorate of Operations (DO) for its “mismanagement of the HUMINT mission.” Noting that it had for years offered criticism of the DO in its classified reports, based upon “hundreds of meetings and continuous dialogue with CIA field operatives,” the committee said the DO had long ignored its “core mission activities” and was in “dysfunctional denial” with respect to the corrective actions that were needed. Citing damage done through its “misallocation and redirection of resources, poor prioritization of objectives, micromanagement of field operations, and a continued political aversion to operational risk,” the committee said the CIA “continues down a road leading over a proverbial cliff.”⁸²

Provided with this assessment in advance of its being approved, DCI Tenet wrote a blunt letter to the committee, saying he objected to the “tone and content” of the report, and called some of its conclusions “frankly absurd.”⁸³ Yet the committee stood by its criticism.

*The US cannot afford to be in the position again that the DO and other collectors within the Intelligence Community have not provided analysts with sufficient information upon which to base their assessments.*⁸⁴

In subsequent testimony to the HPSCI, Tenet defended the Agency’s performance. In his memoir, he recounts what he told the committee:

*That year we were graduating the largest class of clandestine officers in our history. Since 1997, we had deployed a thousand operations officers in the field. The numbers were great, I said, but nonetheless it would take another five years before our clandestine service was near where it needed to be. This shouldn’t have been a surprise. When you have a decade of neglect, it takes you at least that long to recover.*⁸⁵

⁸² House Permanent Select Committee on Intelligence, *Report to Accompany the Intelligence Authorization Act for Fiscal Year 2005*, 23–24.

⁸³ Quoted in Jehl, “House Committee Says CIA Is Courting Disaster by Mismanaging Its Human Spying.”

⁸⁴ House Permanent Select Committee on Intelligence, *Report to Accompany the Intelligence Authorization Act for Fiscal Year 2005*, 23.

⁸⁵ Tenet, *At the Center of the Storm*, 24.

AUTHOR'S COMMENTARY

Collection in General

Congress charged the Agency with collecting foreign intelligence around the world and expects it to be out there doing it, or at least trying to do it. In fact, more often than not, Congress's principal complaint has been with the lack of collection, not with operational failure itself. Problematic as it might be, collecting foreign intelligence, in principle, has never been particularly controversial on the Hill. There are places and things, members recognize, that the US government cannot know about in any other way. Other countries do it against us, they reason, so why shouldn't we do it against them? Even when the Agency moved to new forms of technical collection in the mid-1950s—something Congress had little role in—few eyebrows were raised. If the Agency were able to do it, the prevailing sentiment seems to have been, more power to it. While a few in Congress wondered at the end of the Cold War whether the Agency needed to do quite so much of it, this sentiment proved short-lived and never compelling.

Having said this, the historical record clearly shows that, however well accepted the Agency's intelligence-gathering efforts may be, Congress is still likely to intervene, either before or after the fact, when members perceive problems with them. If Congress thinks such activities have caused or may cause undue embarrassment for the country if disclosed, or if they will adversely affect US relations with other countries, it may ask what the justification is. If it perceives that the Agency is collecting against inappropriate targets (US citizens, friendly foreign countries) or is using dubious means to acquire information (unwitting Americans, people with records of human rights abuse, blackmail, or torture), it is also apt to inquire. Before the two intelligence committees were created, Congress rarely became aware of such problems. Now, and especially after the new notification procedures were put in place in 1996, such awareness is commonplace.

Congress and Espionage

No area of governmental activity is more secretive than espionage operations. The identities of clandestine agents the Agency recruits and the details of their activities on behalf of the United States are typically not shared with the outside world at all. Even within the Agency, access to such information is limited to a relative few. While information produced by such operations is shared on a limited basis outside the Agency, access to it is tightly controlled.

The reason for such secrecy is obvious: the more who are exposed to such information, the greater the risk of disclosure and harm to those who have put their lives on the line.

Consider, on the other hand, the Congress, for the most part an open institution whose members are accustomed to making political “hay” out of the information that comes their way. Moreover, most would not be where they are if they did not like to talk. Entrusting them, no matter how well-intentioned they might be, with the most sensitive information held by the federal government would seem, to some, a bad idea.

In fact, it has also seemed that way to the Congress. The committees that have overseen the Agency have not demanded to know the identities of its clandestine agents, nor have they demanded to know where they are or what they are doing. They have not routinely asked to be consulted with respect to ongoing operations, nor have they routinely demanded to see the intelligence being produced by such operations. They assert the right to know such things if they should become necessary to the execution of their institutional responsibilities, but rarely have they found this to be the case. Instead, Congress has found it can ordinarily exercise its responsibilities over the Agency, even in the problematic area of espionage, without knowing the identities of its agents or the details of its operations.

Until the intelligence committees were created in the mid-1970s, Congress’s understanding of the Agency’s clandestine operations was, in the words of one CIA officer, “murky at best.” Its overseers may have had a general idea about how the Agency went about recruiting and handling clandestine agents, based upon the occasional briefings they received, but without documentation to refer to, the perceptions created by such briefings could only have been sketchy and fleeting.

The select intelligence committees that superseded them also did not get the details of ongoing operations, but over time—through briefings, budget presentations, trips to the Agency, visits to overseas stations, and investigative activity—they were able to gain a far clearer, far more sophisticated understanding of the Agency’s clandestine tradecraft than their predecessors. Certainly by the early 1980s, the intelligence committees had come to understand how the Agency identified potential assets and how it vetted, recruited, and handled them. They also had a pretty clear idea how well the Agency was doing at it. They saw how difficult it was to mount such operations—especially to recruit assets with access to information that mattered to US policy-makers—and control assets once recruited.

All of this helped them to assess the Agency’s annual budget requests. It also helped them understand why it was sometimes necessary for the Agency

to work with “bad” people in order to obtain crucial information and not foreclose potential avenues of collection that might someday be critical to US interests. On the investigative side, it helped the committees understand why things sometimes went wrong and assess the complaints and allegations they periodically received about the Agency (some coming from assets themselves). To be sure, a great deal of operational information was still withheld from the committees—for example, neither was officially told about the compromise of many of the Agency’s assets in the Soviet Union that occurred as a result of Aldrich Ames’s treachery (see chapter 10). Nevertheless, they had learned enough by this point to develop a relatively sophisticated frame of reference in which to carry out their responsibilities.

In the mid-1990s, as described in the text, the Agency took the additional step of formalizing and regularizing the notification of its operational activities to the two committees. The Agency would continue to withhold operational details that were not needed to understand the situation, but a great deal more information began to be provided.

Perhaps nothing better illustrates how far things had come in an oversight sense than the two major inquiries the committees conducted at the end of the period covered by this study: the joint inquiry into 9/11 in 2002 and the SSCI’s investigation of the prewar intelligence assessments on Iraq in 2004. In both cases, the committees wanted the details of all the Agency’s collection activities (either against al-Qa’ida or the Iraqi regime of Saddam Hussein)—unilateral operations, liaison activities, and technical collection. And in both instances, the Agency gave them what they needed to know, all without a great deal of argument or controversy. This is not to say that the Agency made no effort to protect sensitive operational details but only that the relationship with the oversight committees had progressed so far by this point that both sides understood and accepted the needs of the other. Access by the Congress to operational information that might have dogged such investigations in the past did not generate significant controversy.

Congress and the Agency’s Technical Collection

The CIA subcommittees had limited awareness of, and almost no involvement in, the early technical collection programs that the Agency managed or participated in: the U-2 and A-12 reconnaissance aircraft and the early reconnaissance satellites. In part, this was due to the extreme secrecy surrounding these programs and, in part, to the inability of the subcommittees themselves to contribute meaningfully to the direction and execution of these efforts. While their approval was needed each year to fund these programs, it appears this was usually accomplished by the leaders of the subcommittees whose

trusted staff aides made sure the administration's requests were plugged into the appropriate funding bills. Agency records, in fact, do not reflect any substantive discussion of any of these programs with the Congress.

Still, it was the shutdown of the U-2 over the Soviet Union in May 1960 that provoked the biggest reaction Congress had had to any CIA activity to that point. For the most part, the reaction was favorable. Although the existence of the U-2 came as a surprise to all but a few members in each chamber, most seemed impressed that the Agency had managed to develop and fly such an aircraft. Their main gripes were with the Eisenhower administration over the timing of the ill-fated flight and the clumsy cover stories that had been put forth after the shoot-down. Hardly anyone in Congress seemed worried, as Eisenhower was, that the overflights might be seen as violating Soviet sovereignty.

Neither the reconnaissance satellites that came along later nor the high-altitude, supersonic A-12 posed the same danger of being shot down, but they did pose issues with respect to their costs and capabilities. While Agency records do not reflect what Congress was told about them, it is likely that DCIs broached these programs with at least the leaders of the CIA subcommittees in the course of the annual budget process. Apparently, however, they were not motivated to inquire beyond what they were told.

Like so much of the Agency's relationship with Congress, this changed after the creation of the select committees in the mid-1970s. Both committees began to demand voluminous documentation from CIA about its technical collection programs and, over time, developed professional staffs with detailed knowledge of them. Indeed, because the subject matter was technical and arcane as far as members were concerned, the staff that monitored these programs came to have considerable influence over them. Typically, the issues involved were sorted out each year in the course of the budget process. But on occasion, notably in the course of the SSCI's inquiries into the ability of the Intelligence Community to monitor various arms control treaties, the committee, independent of the annual budget reviews, would assess the capabilities and/or performance of the Agency's technical systems against particular targets.

The committees would also look from time to time at other kinds of technical collection the Agency engaged in. For example, they would look at signals-intelligence-gathering that was sometimes done as part of clandestine operations, or perhaps, they would look at the Agency's efforts to acquire and analyze Soviet military equipment. Occasionally the committees would be concerned about the reaction of foreign governments if such activities were disclosed, but more often they simply wondered whether the Agency's activities were duplicating those of other intelligence agencies.

Historically, though, because the Agency's technical collection activities were relatively passive and the issues associated with them were considered in the context of the budget process, they have had a lower profile than other Agency activities. Still, programs with large price tags will always produce controversy with the Congress, and these programs were no exception.

